

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES—GENERAL

Case No. CV 23-6433-MWF (RAOx)

Date: September 19, 2023

Title: Korie Schmidt v. Scott Day, et al.

Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:
Rita Sanchez

Court Reporter:
Not Reported

Attorneys Present for Plaintiff:
None Present

Attorneys Present for Defendant:
None Present

Proceedings (In Chambers): ORDER GRANTING DEFENDANTS' MOTION TO DISMISS FOR INSUFFICIENT SERVICE OF PROCESS AND LACK OF PERSONAL JURISDICTION [11]; ENTRY OF JUDGMENT

Pro se Plaintiff Korie Schmidt has sued Defendants Scott Day and Digimedia.com, L.P. for trademark infringement. (Notice of Removal ("NOR") (Docket No. 1), Ex. A, at 6-7). Now before the Court is Defendant's Motion to Dismiss for Insufficient Service of Process and Lack of Personal Jurisdiction (the "Motion") filed on August 21, 2023. (Docket No. 11). Plaintiff did not file an Opposition.

The Motion was noticed to be heard on **September 18, 2023**. The Court read and considered the papers on the Motion and deemed the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78(b); Local Rule 7-15. The hearing was therefore **VACATED** and removed from the Court's calendar.

The Motion is **GRANTED**. Plaintiff's failure to file an Opposition is a sufficient reason to grant the Motion. *See* Local Rule 7-12 ("The failure to file any required document, or the failure to file it within the deadline, may be deemed consent to the granting or denial of the motion."); *Ewing v. Ruano*, No. 09-8471, 2012 WL 2138159, at *1 (C.D. Cal. June 12, 2012) ("As noted, Plaintiff failed to oppose the defendants' motion to dismiss by the deadline established in the Local Rules. Accordingly, pursuant to Local Rule 7-12, the Court finds good cause for granting the defendants' unopposed motion to dismiss."). Because Defendants request judicial

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notice of facts not subject to reasonable dispute (Docket No. 12), Defendants' Request for Judicial Notice is also **GRANTED**.

Based on the Motion and a review of the Complaint and other documents, the Motion is also granted on the merits. The peculiar nature of the Proof of Service (Declaration of Michael Long, Ex. D) is such that it fails to establish that proper service occurred here. Fed. R. Civ. P. 12(b)(5). More important, Plaintiff has failed to demonstrate that specific personal jurisdiction exists over Defendants. Fed. R. Civ. P. 12(b)(2).

Accordingly, the Motion is **GRANTED**, and the action is **DISMISSED *without prejudice***.

IT IS SO ORDERED.

This Order shall constitute notice of entry of judgment pursuant to Federal Rule of Civil Procedure 58. Pursuant to Local Rule 58-6, the Court **ORDERS** the Clerk to treat this Order, and its entry on the docket, as an entry of judgment.

The Court notes that Plaintiff does not have a lawyer. Parties in court without a lawyer are called "*pro se* litigants." These parties often face special challenges in federal court. Public Counsel runs a free Federal *Pro Se* Clinic where *pro se* litigants can get information and guidance. The Clinic is located at the Roybal Federal Building and Courthouse, 255 East Temple Street, Los Angeles, CA 90012 (note that the clinic may not be open for in-person appointments during the pandemic). *Pro se* litigants must call or submit an on-line application to request services as follows: on-line applications can be submitted at <http://prose.cacd.uscourts.gov/los-angeles>, or call (213) 385-2977, ext. 270.